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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,966	07/05/2006	Hisanori Akiyama	128307	7259

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OLIFF & BERRIDGE, PLC  
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EXAMINER
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COLLINS, DARRYL J

ART UNIT	PAPER NUMBER
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2873

MAIL DATE	DELIVERY MODE
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06/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/581,966

Applicant(s)

AKIYAMA ET AL.

Examiner

Darryl J. Collins

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-21 is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>06072006</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-7, drawn to a spectacle lens supply system.

Group II, claim(s) 8-21, drawn to a spectacle wearing test system.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The spectacle lens supply system relies on the processing steps of a manufacturing side computer for receiving data and providing a dispensed article wherein the spectacle wearing test system accepts data to configure spectacles for a proper fit.

During a telephone conversation with Mr. David Kemeny on June 18, 2007 a provisional election was made with traverse to prosecute the invention of Group II, claims 8-21. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-7 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9, 10, 11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumitani et al (U.S. Patent Number 6,533,418).

Although Izumitani et al teaches a spectacle wearing test system comprising a spectacle wearing parameter measurement apparatus measuring a spectacle wearing parameter required to manufacture a spectacle and having a first spectacle wearing parameter acquisition means for acquiring the spectacle wearing parameter before manufacturing the spectacle (Figure 1) wherein the spectacle wearing parameter measured is an inter-pupil distance (column 16, lines 36-39) as claimed in independent claims 8 and 9, the prior art fails to teach such a system having a second spectacle wearing parameter acquisition means for acquiring the spectacle wearing parameter after manufacturing the spectacle. However, Izumitani et al does, at the very least, suggest that a second parameter measurement is made after the manufacture of the spectacle lens and compared to the first (Figure 2, element 17) such that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a feedback loop in the manufacturing process for quality assurance of the final spectacle product.

With regards to claim 10, Izumitani et al teaches a spectacle wearing test system further comprising a customer database connected to the spectacle wearing parameter measurement apparatus wherein the spectacle wearing parameter figures are recordable in the database

Art Unit: 2873

(column 15, lines 16-23), but fails to explicitly teach a comparison of the first and second spectacle wearing parameters. Again, Izumitani et al does, at the very least, suggest a comparison of the first and second spectacle wearing parameters (Figure 2, element 17) such that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a feedback loop in the manufacturing process for quality assurance of the final spectacle product.

With regards to claim 11, again, Izumitani et al teaches a spectacle wearing test system comprising a spectacle wearing parameter measurement apparatus measuring a spectacle wearing parameter required to manufacture a spectacle and having a first spectacle wearing parameter acquisition means for acquiring the spectacle wearing parameter before manufacturing the spectacle (Figure 1) wherein the spectacle wearing parameter measured is an inter-pupil distance (column 16, lines 36-39) as claimed in independent claim 11, but fails to teach such a system having a second spectacle wearing parameter acquisition means for acquiring the spectacle wearing parameter after manufacturing the spectacle. Izumitani et al also fails to explicitly teach such a system comprising a memory means capable of recording a spectacle wearing parameter. However, it should be pointed out that the interactive system, comprising a computer (Figure 10, element 100) and host computer (Figure 10, element 110), inherently comprises a memory means for exchanging data. It should also be noted that Izumitani et al does, at the very least, suggest that a second parameter measurement is made after the manufacture of the spectacle lens and compared to the first (Figure 2, element 17) such that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a feedback loop in the manufacturing process for quality assurance of the final spectacle product.

***Allowable Subject Matter***

Claims 12-21 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. Although the prior art teaches a spectacle wearing parameter measurement apparatus, the prior art fails to teach such comprising a vision fixing means for setting the wearer's vision to a distance vision state or near vision state, an image input means based on the vision state further comprising a mean to measure and calculate a wearing parameter based on the image taken in the appropriate vision state as claimed in independent claim 12.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darryl J. Collins whose telephone number is 571-272-2325. The examiner can normally be reached on 6:30 - 5:00 Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2873

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Darryl J. Collins  
Patent Examiner  
Art Unit 2873

20 June 2007

A handwritten signature in black ink, appearing to read 'Darryl J. Collins', is written over the printed name and title.